

**BRESSLER, AMERY & ROSS, P.C.**

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*Attorneys for Defendants*

*Harlan B. Pyles and B&S Pyles Trucking, LLC*

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

DEBORA SMOKER, DANIEL SMOKER,

Plaintiffs,

vs.

HARLAN B. PYLES and B&S TRUCKING  
LLC and/or B&S PYLES TRUCKING LLC  
and JOHN DOE #1-20 (inclusive, fictitiously  
named defendants), and ABC CORP #1-20  
(inclusive, fictitiously named defendants), and  
XYZ COMPANY (inclusive fictitiously  
named defendants)

Defendants.

Civil Action No. 1:19-cv-15251

**AMENDED  
NOTICE OF REMOVAL  
(Diversity)**

Defendants Harlan B. Pyles (“Mr. Pyles”) and B&S Pyles Trucking LLC (improperly pled as B&S Trucking LLC and/or B&S Pyles Trucking LLC) (“B & S”) (collectively, “Defendants”), by and through their counsel, Bressler, Amery & Ross, P.C., pursuant to 28 U.S.C. §§ 1332, 1367, 1441 and 1446, and with a full reservation of any and all rights, claims, objections and defenses, hereby file this Notice of Removal from Superior Court of New Jersey, Law Division, Camden County to the United States District Court for the District of New Jersey. As for their reasons for removal, the Defendants respectfully state as follows:

**THE REMOVED CASE**

1. On or about June 17, 2019, there was commenced and is now pending before the Superior Court of the State of New Jersey, County of Camden, a civil action entitled Smoker, et

al. v. Pyles, et al., Docket No. CAM-L-002444-19 (herein after “State Court Action”). A true copy of the complaint filed in that matter is attached as Exhibit 1.

### **JURISDICTION AND GROUNDS FOR REMOVAL**

2. This action is a civil action removable to this Court pursuant to 28 U.S.C. § 1441 because this Court has original jurisdiction over this cause under 28 U.S.C. § 1332(a)(1).

3. Defendant B & S is a limited liability company organized under the laws of the State of West Virginia, having its principal place of business at 1621 Lost River Park Road in Moorefield, West Virginia 26836. Defendant B&S has two members, Benjamin Pyles and Stacy Pyles, who are both citizens of the State of West Virginia residing at 1621 Lost River Park Road in Moorefield, West Virginia 26836.

4. Defendant Harlan B. Pyles is a citizen of the State of West Virginia who resides at 412 Shoemaker Road, Lost City, West Virginia 26810.

5. Based upon the Complaint, Plaintiffs are citizens of the Commonwealth of Pennsylvania, residing in Emmaus, Pennsylvania.

6. Accordingly, the diversity of citizenship requirement is satisfied pursuant to 28 U.S.C. § 1332(a)(1) and (c).

7. Plaintiff Debora Smoker asserts in the Complaint personal injury due to negligence in the operation, control, maintenance and/or supervision of said motor vehicle resulting in pain, suffering, medical expenses, and economic losses. Plaintiff Daniel Smoker is Plaintiff Debora Smoker’s spouse and has brought *per quod* claims. Although the Complaint does not state the monetary amount that Plaintiffs seek in relief, Plaintiff Debora Smoker alleges a serious, substantial and permanent injuries including significant disfiguring scarring that affect Plaintiff’s ability to engage in everyday activities. As of July 9, 2019, although we have not yet received any of Plaintiff’s medical records setting forth her claimed injuries, Plaintiffs’ attorney did indicate his

belief that Plaintiffs' damages exceed \$75,000.

8. Accordingly, in light of Plaintiffs' complaints, the fact that the accident involved a tractor trailer, and Plaintiffs' counsel's assertion regarding the value of this matter, Defendants have a good-faith basis to believe that the matter in controversy in this action exceeds the sum or value of \$75,000, exclusive of interest and costs. Thus, the amount in controversy requirement is satisfied pursuant to 28 U.S.C. § 1322(a). This action is, therefore, a civil action of which this Court has original jurisdiction under 28 U.S.C. § 1332 and one which may be removed by Defendant pursuant to 28 U.S.C. §§ 1441(b) and 1446 in that it is a civil action wherein the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs, and is between citizens of different states.

#### **THE REMOVAL IS TIMELY AND PROCEDURALLY PROPER**

9. Plaintiff filed his Complaint in state court on or around June 17, 2019.

10. Although, Defendants have not yet been served with a copy of the Summons and Complaint, Defendants learned of the lawsuit on July 1, 2019 as part of its own investigation. Defendants did not receive the Complaint prior to this date. Therefore, this Notice of Removal is filed within 30 days of first notice of the lawsuit and less than one year after commencement of the State Court Action. As such, it is timely under 28 U.S.C. § 1446(b).

11. All defendants consent to the removal of this action to the United States District Court for the District of New Jersey.

12. Pursuant to Fed. R. Civ. P. 81(c)(2)(C), Defendants' response to the Complaint is not due to be served until July 22, 2019.

#### **FILING OF REMOVAL PAPERS**

13. Pursuant to 28 U.S.C. § 1446(d), Defendants concurrently herewith gives written notice of filing of this Notice of Removal to the Plaintiff and to the Superior Court, Camden

County, New Jersey. A copy of that Notice is attached to this Removal. (See Exhibit 2 (without exhibits)).

**WHEREFORE**, Defendants Harlan B. Pyles and B&S Pyles Trucking LLC (improperly pled as B&S Trucking LLC and/or B&S Pyles Trucking LLC) hereby removes Case Number CAM-L-2444-19 from the Superior Court of New Jersey, Law Division, Camden County to this Court for determination and respectfully requests that this Court make and enter an Order of Removal of Case Number CAM-L-2444-19.

Respectfully submitted,

**BRESSLER, AMERY & ROSS, P.C.**

*Attorneys for Defendants*

*Harlan B. Pyles and B&S Pyles Trucking LLC*



By: \_\_\_\_\_

MaryJane Dobbs

Dated: July 22, 2019

**LOCAL RULE 11.2 CERTIFICATION**

Pursuant to Local Civil Rule 11.2, the undersigned hereby certifies that, at the time of filing the within, the undersigned is not aware that the matter in controversy is the subject of actions pending in any other court, or of any pending arbitration or administrative proceeding, except as disclosed herein.

Respectfully submitted,

**BRESSLER, AMERY & ROSS, P.C.**

*Attorneys for Defendants*

*Harlan B. Pyles and B&S Pyles Trucking LLC*



By: \_\_\_\_\_

MaryJane Dobbs

Dated: July 22, 2019

**CERTIFICATE OF SERVICE**

On this day, I certify that a copy of the above and foregoing notice was caused to be filed with the United States District Court for the District of New Jersey by ECF.

I also hereby certify that a true copy of the above and foregoing notice was electronically filed by e-Courts with the Clerk's Office, Superior Court of New Jersey, Camden County Hall of Justice, 101 S. 5<sup>th</sup> Street, Camden, New Jersey 08103.

I also hereby certify that a true copy of the above and foregoing notice was delivered by Lawyers' Service to:

Craig R. Levin, Esq.  
**FRIEDMAN & LEVIN ASSOCIATES**  
1940 Route 70 East, Suite 2  
Cherry Hill, New Jersey 08003  
*Attorney for Plaintiffs*  
*Debora Smoker and Daniel Smoker*



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Emily J. Bordens

Dated: July 22, 2019